

***THE HON'BLE MR JUSTICE L.NARASIMHA REDDY**

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W.P.No.19134 of 2005

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% 29.11.2005

Between:

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S.Muralikrishna,
Chittoor.

...Petitioner

A N D

Bharat Sanchar Nigam Ltd.
rep. by its Chief General Manager, A.P.,
Hyderabad and others.

...Respondents

! Counsel for the Petitioners: Sri T.C.Krishnan

^ COUNSEL FOR THE RESPONDENTS: Standing Counsel

< Gist:

> Head Note:

? CITATIONS:

2003 (4) ALD 332

(1994) 4 SCC 138

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WRIT PETITION NO.19134 2005

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Dated 29 -11-2005

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JUDGMENT:

The father of the petitioner by name, Laxmanna, was appointed as a Line Inspector in the Bharat Sanchar Nigam Limited (for short 'B.S.N.L'). He died in a road accident on 04-04-2001.

The petitioner passed S.S.C. examination as a private candidate, in June 2002. He submitted an application to the respondents to appoint him on compassionate grounds, on account of the death of his father, while in service. Through his proceedings dated 10-02-2005, the Assistant General Manager (Administration), of B.S.N.L., Hyderabad, informed the petitioner that the High Power Committee, that met on 07-01-2005, examined the case of the petitioner and decided to reject it, on the ground that the family is not in a distressed condition. The petitioner challenges the same.

Petitioner contends that his mother is an illiterate; he married a Schedule Caste woman, and that the family does not have any sources of income. He alleges that the Field Inspection Report submitted to the respondents discloses that the family does not have any movable or immovable property.

On behalf of the respondents, a counter affidavit is filed.

It is stated that the mother of the petitioner is being paid a fairly good amount towards family pension, and that substantial amounts were paid to her, soon after

the death of late Laxmanna. They contend that the family of the petitioner cannot be said to be in penury, and as such, no relief can be granted. The petitioner filed a reply affidavit, with an attempt to justify his plea.

Sri T.C.Krishnan, learned counsel for the petitioner submits that there exists a Scheme in B.S.N.L., for providing appointment on compassionate ground, to the dependents of the employees, who died, while in service. He contends that the respondents are not justified in relating the pensionary and other benefits, to their obligation, to provide employment to the petitioner.

Learned Standing Counsel for the respondents, on the other hand, submits that the Scheme for providing compassionate appointment was introduced with the sole object of rescuing the families of deceased employees, if they are in distressed condition, and that if it is found that such a condition does not exist, the facility cannot be claimed as of right.

The father of the petitioner was employed in B.S.N.L., and he died on 04-04-2001. The petitioner submitted an application, seeking employment on compassionate grounds, and the application was processed. The Sub-Divisional Officer of Chittoor, submitted a Field Inspection Report, to the effect that the petitioner is a resident of Obanapalle Housing Board Colony, Chittoor, and that he does not hold any movable or immovable property. It is also stated that he does not have any source of income, and that

he is dependent upon his mother. Together with this report, the matter is placed before the High Power Committee, which is constituted for the purpose of consideration of applications, for providing compassionate appointment. The Committee examined the matter and rejected the case of the petitioner.

Appointment on compassionate grounds, in any service, is an exception to the general method of recruitment. Such a Scheme has been evolved, with an object of

rescuing the families, which find themselves in utter distressed condition, on account of the sudden death of the bread-winner, who is employed in the concerned organization. Every death of an employee, while in service, need not necessarily lead to a situation of appointment of a member of that family on compassionate grounds. It would depend upon financial penury, which the family finds itself, on account of the sudden demise of the sole bread-winner. Otherwise, the office held by the deceased employee becomes an estate by itself, to pass on, to the successors, may be in a different form. In ***K.R.Sulochana Devi v. Chairman, Railway Board, New Delhi*** this Court had an occasion to deal with identical situations, prevailing in various organizations. After discussing the matter at length, and referring to the judgments rendered by the Supreme Court in various cases, particularly, the one in ***Umesh Kumar Nagpal, v. State of Haryana***, it was held as under:

“Para-29:

- a. Any Organisation where the Scheme for providing employment on compassionate grounds to the dependents of employees who die in harness, is prevalent, the Scheme should be extended to only those families where there does not exist any other earning member in the family. For this purpose, the family shall include mother, father and their children. The fact that there was any divorce between father and mother or that the employed children are living separately shall not be of any consequence.
- b. If on the death of such employee, the benefit extended to the dependents of the employee is Rs.1,00,000/- (R.One lakh only) or more, in any form, such as, pension, gratuity, provident fund, no member of the family of the deceased employee shall be entitled for compassionate appointment.
- c. Where any Organisation is undertaking reduction of its employees by introducing VRS or other Schemes, the cases of candidates, who are otherwise eligible, need not be considered on compassionate grounds. However, as and when recruitment takes place, the cases of such candidates shall be considered by giving relaxation of age, if required, in favour of such candidates to the extent of the period between the date of the death of the employee and the date of recruitment, if the financial condition of the family continues to be so.
- d. Appointment of eligible candidates on compassionate grounds will be

only to Class IV posts and not beyond that; irrespective of the qualifications held by the candidates.

- e. At any given point of time, the extent of such appointments shall not exceed 10% of the cadre to which the appointment is made”.

Learned counsel for the petitioner is not able to cite any decision, which is at variance, with the view expressed in the said judgment.

Coming to the facts of the case, it has been categorically stated in the counter affidavit that the mother of the petitioner is being paid monthly family pension @ Rs.4,780/-, and that the family was extended various benefits to the tune of Rs.3,93,709/-, under various heads.

The death of the head of the family certainly brings about an unfortunate situation for the family. However, that, by itself, cannot be permitted to clothe the members of that family, to secure employment, without the medium of selection or competition, and to steal march-over, thousands of unemployed qualified persons, many of whom are, in comparatively more miserable condition. The petitioner had, at least the benefit of being brought up by an employee, and his family being extended substantial amount in lump-sum, apart from monthly family pension. When compared to many candidates, who do not have such benefit, and those who do not have the opportunity of employment for generations together, the petitioner cannot be said to be in such penury, as, to be preferred to other candidates.

For the foregoing reasons, the view taken by the respondents squarely accords with the law laid down by the Supreme Court as well as this Court, on the matter, and no exception can be taken to it.

The writ petition is accordingly dismissed. There shall be no order as to costs.

L. NARASIMHA REDDY, J.

Dt. -11-2005

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Note:

L.R. copy to be marked.

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